



Attorney General

1275 WEST WASHINGTON

Phoenix, Arizona 85007

Robert R. Corbin

January 4, 1985

Mr. Roy McAuley
Assistant Executive Director
Arizona Veterans Memorial Coliseum
1826 West McDowell
Phoenix, Arizona 85005

Re: I85-001 (R84-177)

Dear Mr. McAuley:

You have asked whether income received by the Arizona Coliseum and Exposition Center Board (Coliseum) from the concessionaire of alcoholic beverages may be deposited in the Coliseum's Improvement Revenue Bond Special Sinking Fund (Sinking Fund) if, when the income is received, there are no bonds available for purchase. A.R.S. § 4-207.C requires that:

All income received by the Arizona coliseum and exposition center board from the alcoholic beverage concessionaire shall be applied toward the reduction of its bonded indebtedness.

The bonded indebtedness may be reduced by either redeeming the bonds at full face value plus an early retirement penalty or by purchasing them through the bond market. You advise that, when available, these bonds may be purchased through the bond market for less than seventy percent of face value.

Arizona State Fair Commission Resolution No. 102 (Resolution No. 102)^{1/} specifies the characteristics of

1. Resolution No. 102 is a contract between the Coliseum and the purchasers of its improvement revenue bonds, project of 1964. See A.R.S. § 3-1006(A).

Mr. Roy McAuley
January 4, 1985
Page 2

and establishes several Coliseum funds. Deposits to the Sinking Fund may not be transferred or used for any purpose other than the redemption or purchase of outstanding bonds issued in 1964 for the construction of the Coliseum and related costs and expenses, but income from the investment of monies in the Sinking Fund must be deposited in the Arizona State Fair Fund, which, after providing for payment of principal and interest on outstanding bonds, may be used by the Arizona State Fair Commission for any lawful purpose. Resolution No. 102, Art. V, §§ 6 and 7, and Art. VI. Because this procedure poses the possibility that interest income revenue deposited in the Sinking Fund when received from the alcoholic beverage concessionaire would go to the Arizona State Fair Fund, and thus be used for purposes other than the reduction of bonded indebtedness, the procedure is not permissible. See State of Missouri v. Dickherber, 576 S.W. 2d 532, 537 (Mo. 1979) (interest on public funds designated for a specific purpose follows those funds in the absence of an unequivocal legislative expression otherwise). See generally cases collected at Annot., 143 A.L.R. 1341 (1943).

The legislative direction in A.R.S. § 4-207.C that income received from the alcoholic beverage concessionaire shall be applied toward the reduction of bonded indebtedness is more restrictive than the language of Resolution No. 102 because the statutory direction extends to the income received from investments. Unless the Coliseum's accounting methods can verify that the monies derived from the sale of alcoholic beverages and income therefrom were used exclusively for bond indebtedness, a special fund should be established by the Coliseum board solely for deposits from the alcoholic beverage concessionaire. Interest income from such a special fund should be retained in that fund until needed to reduce the Coliseum's bonded indebtedness.

Sincerely,



BOB CORBIN
Attorney General

BC/DR/sr